

REISSUE APPLICATION DECLARATION BY THE INVENTOR

Docket Number (Optional)

0469/129

As a below named inventor, I hereby declare that:

My residence, mailing address and citizenship are stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is described and claimed in patent number 5,551,445, granted September 3, 1996, and for which a reissue patent is sought on the invention entitled Apparatus and Method for Movement Coordination

Analysis

the specification of which

☐ is attached hereto.

☒ was filed on September 1, 1998 as reissue application number 09 / 145,255 and was amended on _____ (If applicable)

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)

☐ by reason of a defective specification or drawing.

☒ by reason of the patentee claiming more or less than he had the right to claim in the patent.

☐ by reason of other errors.

At least one error upon which reissue is based is described below. If the reissue is a broadening reissue, such must be stated with an explanation as to the nature of the broadening:

(See attached Statement of Lewis M. Nashner)

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(REISSUE APPLICATION DECLARATION BY THE INVENTOR, page 2)

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All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant. As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the United States Patent and Trademark Office connected therewith.

Name(s)	Registration Number
Elizabeth P. Morano	42,904
Bruce D. Sunstein	27,234
Robert M. Asher	30,445

Correspondence Address: Direct all communications about the application to:

See Attachment

☒ Customer Number

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☐ Firm or
Individual Name

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Full name of sole or first inventor (given name, family name)

Lewis M. Nashner

Inventor's signature

Date

11/20/02

Residence

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Full name of second joint inventor (given name, family name)

Inventor's signature

Date

Residence

Citizenship

Mailing Address

Full name of third joint inventor (given name, family name)

Inventor's signature

Date

Residence

Citizenship

Mailing Address

☐ Additional joint inventors are named on separately numbered sheets attached hereto.



Patent Number: 5,551,445

Issue Date: September 3, 1996

Invention Title: Apparatus and Method for Movement Coordination Analysis

Attorney Docket Number: 0469/129

**Reissue Application Declaration by the Inventor (PTO/SB/51)
Registered Practitioner Information—Supplemental Sheet**

Name	Registration Number	Name	Registration Number
Timothy M. Murphy	33,198		
Steven G. Saunders	36,265		
Samuel J. Petuchowski	37,910		
Jeffrey T. Klayman	39,250		
John J. Stickevers	39,387		
Jay Sandvos	43,900		
Alexander J. Smolenski	47,953		
John L. Conway	48,241		
Morton Chirnomas	34,465		

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STATEMENT OF LEWIS M. NASHNER

The patent claims less than I had a right to claim. I failed to appreciate that my invention was not previously claimed with sufficient scope.

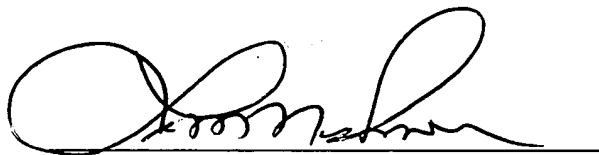
I have developed numerous methods and products for diagnosing causes of balance disorders. I have obtained many United States patents, including U.S. Patent Nos. 4,738,269, 5,052,406, and 5,269,318, as well as the patent (U.S. Patent No. 5,551,445) upon which the present reissue application is based. Support for the various inventions may also be found in U.S. Patent Application Serial No. 408,184, filed August 16, 1982, from which each of the above referenced patents claims priority under 35 U.S.C. § 120 and which is incorporated into the present application. The methods set forth in these patents diagnose balance disorders by providing false information to the soles of a subject's feet and, in some embodiments, to the subject's eyes. More generally, as mentioned in the specification of the present application, embodiments of the invention provide methods and apparatuses for removing somatosensory orientation inputs from the feet. One way this may be accomplished is by providing one or more support surfaces (such as a moveable force plate) that permit rotation of the subject's feet about an axis which is co-linear with at least one of the subject's ankles (as shown at 12 in Fig. 1 of the present application).

Prior to the time that I filed the present reissue application, I believed that the above referenced four patents would cover a method such as set forth in the attached article, Shumway-Cook, A. and Horak, F.B., "Assessing the Influence of Sensory Interaction on Balance/Suggestion from the Field," The Journal of American Physical Therapy Assn., Vol. 66, No. 10, October 1986. During the course of same year in which I filed the present reissue application, I learned that the method set forth in this article was being commercialized. An analysis of my patents, unfortunately, did not uncover any claim that would appear to literally cover the method set forth in the attached Shumway-Cook article, despite the fact that the method set forth in that article clearly used novel aspects of my invention. More specifically, the claim 8 of the present application requires the step of rotating about a horizontal axis on a continuous basis one support surface. In accordance with my invention, the purpose of this step is to cause rotation of the subject's feet about the horizontal axis (as shown, for example, in Fig. 4 of U.S. Patent No. 4,738,269). This may be accomplished by rotating the support surface itself or by configuring the support surface such that rotation of the subject's feet inherently occurs,

such as by providing a foam surface. The wording of claim 8 does not literally cover such an embodiment, although foam surfaces were known in the art. Therefore, I believe that in U.S. Patent No. 5,551,445, my invention was not fully and properly claimed to the extent to which I was entitled. New claims 10-15 more fully and properly claims my invention.

This error arose because the patent attorneys who prepared and prosecuted the application corresponding to U.S. Patent No. 5,551, 445 did not fully appreciate the scope of my invention and because I did not appreciate how limiting were the claims that issued. This error arose without any deceptive intent.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Lewis M. Nashner', written over a horizontal line.

Lewis M. Nashner, Inventor